



## COUNCIL CHAMBERS

17555 PEAK AVENUE MORGAN HILL CALIFORNIA 95037

### COUNCIL MEMBERS

Dennis Kennedy, Mayor  
Steve Tate, Mayor Pro Tempore  
Larry Carr, Council Member  
Mark Grzan, Council Member  
Greg Sellers, Council Member

### REDEVELOPMENT AGENCY

Dennis Kennedy, Chair  
Steve Tate, Vice-Chair  
Larry Carr, Agency Member  
Mark Grzan, Agency Member  
Greg Sellers, Agency Member

### REMOTE LOCATION PARTICIPANT

Steve Tate, Council/Agency Member  
6825 E. 4<sup>th</sup> Street  
Scottsdale, AZ 85251  
(Closed Sessions Only)

**WEDNESDAY, MARCH 16, 2005**

### AGENDA

### JOINT MEETING

### CITY COUNCIL SPECIAL AND REGULAR MEETING

and

### REDEVELOPMENT AGENCY SPECIAL MEETING

**6:00 P.M.**

*A Special Meeting of the City Council and Redevelopment Agency is Called at 6:00 P.M. for the Purpose of Conducting Closed Sessions.*

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**Dennis Kennedy, Mayor/Chairman**

### CALL TO ORDER

(Mayor/Chairperson Kennedy)

### ROLL CALL ATTENDANCE

(City Clerk/Agency Secretary Torrez)

### DECLARATION OF POSTING OF AGENDA

**Per Government Code 54954.2**

(City Clerk/Agency Secretary Torrez)

**6:00 P.M.**

## ***City Council Action and Redevelopment Agency Action***

### **CLOSED SESSION:**

**1.**

#### **CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION**

Authority: Government Code Sections 54956.9(b) & (c)  
Number of Potential Cases: 4

### **OPPORTUNITY FOR PUBLIC COMMENT**

### **ADJOURN TO CLOSED SESSION**

### **RECONVENE**

### **CLOSED SESSION ANNOUNCEMENT**

**7:00 P.M.**

### **SILENT INVOCATION**

### **PLEDGE OF ALLEGIANCE**

### **PROCLAMATIONS**

March as Red Cross Month  
*Pat Moore, Red Cross Disaster Services Volunteer*

### **CITY COUNCIL REPORT**

Council Member Sellers

### **CITY COUNCIL SUB-COMMITTEE REPORTS**

### **CITY MANAGER'S REPORT**

### **CITY ATTORNEY'S REPORT**

### **OTHER REPORTS**

### **PUBLIC COMMENT**

**NOW IS THE TIME FOR COMMENTS FROM THE PUBLIC REGARDING ITEMS NOT ON THIS AGENDA.**

(See notice attached to the end of this agenda.)

**PUBLIC COMMENTS ON ITEMS APPEARING ON THIS AGENDA WILL BE TAKEN AT THE TIME  
THE ITEM IS ADDRESSED BY THE COUNCIL. PLEASE COMPLETE A SPEAKER CARD AND  
PRESENT IT TO THE CITY CLERK.**

(See notice attached to the end of this agenda.)

PLEASE SUBMIT WRITTEN CORRESPONDENCE TO THE CITY CLERK/AGENCY SECRETARY. THE CITY CLERK/AGENCY SECRETARY WILL FORWARD CORRESPONDENCE TO THE CITY COUNCIL/REDEVELOPMENT AGENCY.

## City Council Action

### CONSENT CALENDAR:

**ITEMS 1-12** The Consent Calendar may be acted upon with one motion, a second and the vote, by each respective Agency. The Consent Calendar items are of a routine or generally uncontested nature and may be acted upon with one motion. Pursuant to Section 5.1 of the City Council Rules of Conduct, any member of the Council or public may request to have an item pulled from the Consent Calendar to be acted upon individually.

Time Estimate

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Consent Calendar: 1 - 10 Minutes

1. **PURCHASE OF POLICE DEPARTMENT VEHICLES** ..... 1  
**Recommended Action(s):**
  1. **Authorize** Vehicle Purchases and Police Equipment Build Outs Through The Ford Store Morgan Hill for Vehicles Identified in the Report for a Total Cost of \$168,400; and
  2. **Declare** Vehicles #P91502, #P96230, #P95201, and #P96302 as Surplus, and **Authorize** Sale at Auction.
2. **APPROVAL OF CONSULTANT AGREEMENT AMENDMENT WITH HARRIS & ASSOCIATES FOR 2003-2004 PAVEMENT RESURFACING PROJECT** ..... 5  
**Recommended Action(s): Approve** Consultant Agreement Amendment in the Amount of \$10,500 with Harris and Associates for Providing Additional Construction Inspection Services for the 2003-2004 Pavement Resurfacing Project; Subject to Review and Approval by the City Attorney.
3. **FINAL MAP APPROVAL FOR MISSION RANCH PHASE VIII (TRACT 9657)** ..... 7  
**Recommended Action(s):**
  1. **Approve** the Final Map, Subdivision Agreement, and Improvement Plans;
  2. **Authorize** the City Manager to Sign the Subdivision Improvement Agreement on Behalf of the City; and
  3. **Authorize** the Recordation of the Map and the Subdivision Improvement Agreement Following Recordation of the Development Improvement Agreement.
4. **UTILITIES AND ENVIRONMENT SUBCOMMITTEE MINUTES OF FEBRUARY 28, 2005** ..... 19  
**Recommended Action(s):**
  1. **Review** Minutes; and
  2. **Select** Items for Additional Discussion, as Needed.
5. **ACCEPTANCE OF PUBLIC IMPROVEMENTS FOR GATEWAY CENTER PHASE I** ..... 25  
**Recommended Action(s):**
  1. **Adopt** the Resolution Accepting the Public Improvements for Gateway Center Phase I; and
  2. **Direct** the City Clerk to File the Notice of Completion with the County Recorder's Office.

**Time Estimate**  
**Consent Calendar: 1 - 10 Minutes**

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6. **ACCEPTANCE OF EDMUNDSON WATER MAIN DISTRIBUTION, PHASE I PROJECT** ..... 31  
**Recommended Action(s):**  
  1. **Accept** as Complete the Edmundson Water Main Distribution, Phase I Project in the Final Amount of \$382,553; and
  2. **Direct** the City Clerk to File the Notice of Completion with the County Recorder's Office.
  
7. **MORGAN HILL LIBRARY SCHEDULE AND ARCHITECT'S FEE AMENDMENT** ..... 35  
**Recommended Action(s):**  
  1. **Accept** Schedule; and
  2. **Authorize** the City Manager to Prepare and Execute an Amendment to the Contract with Noll and Tam in the Amount of \$210,200, Subject to Review and Approval by the City Attorney.
  
8. **AMENDMENT TO AGREEMENT WITH THE LAW FIRM OF HATCH & PARENT** ..... 39  
**Recommended Action(s):**  
  1. **Authorize** the Appropriation of \$100,000 from the Unappropriated Water Fund Balance into Account 650-42230-5710 to Fund the Continuing Legal Services of Hatch & Parent; and
  2. **Authorize** the City Manager to Execute an Amendment to Agreement with the Law Firm of Hatch & Parent; Subject to Review and Approval by the City Attorney.
  
9. **THIRD AMENDMENT TO AGREEMENT WITH THE STROMBOTNE LAW FIRM** ..... 51  
**Recommended Action(s):** **Authorize** the City Manager to Execute a Third Amendment to Agreement with the Strombotne Law Firm.
  
10. **CONTINUATION OF ORDINANCE NO. 1714, NEW SERIES** ..... 65  
**Recommended Action(s):** **Continue the Adoption** of Ordinance No. 1714, New Series, to April 6, 2005. Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING TEXT AMENDMENTS TO CHAPTER 6.36 (ANIMALS AND LAND USE) OF TITLE 6 (ANIMALS) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL. (ZA-04-22: CITY OF MORGAN HILL-ACREAGE REQUIRED FOR ANIMALS).**
  
11. **ADOPT ORDINANCE NO. 1715, NEW SERIES** ..... 67  
**Recommended Action(s):** **Waive** the Reading, and **Adopt** Ordinance No. 1715, New Series, and **Declare** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING TEXT AMENDMENTS TO CHAPTER 18.56 (EXCEPTION AND MODIFICATIONS) OF TITLE 18 (ZONING) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL. (ZA-04-24: CITY OF MORGAN HILL-FENCE HEIGHT AMENDMENT).**
  
12. **ACCEPTANCE OF DONATIONS FOR THE AQUATICS CENTER FROM MORGAN HILL AQUATIC CENTER, INC. (Continued from 2/16/05)** ..... 73  
**Recommended Action(s):** **Accept** Donations by the Morgan Hill Aquatics Center, Inc. to the Aquatics Center.

## ***City Council and Redevelopment Agency Action***

### **CONSENT CALENDAR:**

#### **ITEMS 13-14**

	<b>Time Estimate</b>	<b>Page</b>
	<b>Consent Calendar: 1 - 10 Minutes</b>	
13.	<b><u>APPROVE JOINT REDEVELOPMENT AGENCY AND SPECIAL CITY COUNCIL MEETING MINUTES OF FEBRUARY 23, 2005</u></b> .....	75
14.	<b><u>APPROVE JOINT SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF MARCH 2, 2005</u></b> .....	105

## ***City Council Action (continued)***

### **CONSENT CALENDAR:**

#### **ITEM 15**

	<b>Time Estimate</b>	<b>Page</b>
	<b>Consent Calendar: 1 - 10 Minutes</b>	
15.	<b><u>ACCEPTANCE OF PAVEMENT RESURFACING PROJECT FOR 2003-2004</u></b> .....	121
	<b><u>Recommended Action(s):</u></b>	
	1. <b><u>Appropriate</u></b> an Additional \$16,688 in Unappropriated Measure C Capital Improvement Project (CIP) Funds which Accrue to the Public Facility/Non-AB1600 (346) Fund for this Project;	
	2. <b><u>Accept</u></b> as Complete the 2003-2004 Street Resurfacing Project in the Final Amount of \$671,378.39, Including Approval of Change Orders 4, 5, 8, and 9; and	
	3. <b><u>Direct</u></b> the City Clerk to File the Notice of Completion with the County Recorder's Office.	

## ***City Council Action***

### **PUBLIC HEARINGS:**

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16.	<b>10 Minutes</b>	
	<b><u>ZONING AMENDMENT, ZAA-02-18: COCHRANE - IN-N-OUT BURGER</u></b> .....	127
	Public Hearing Opened.	
	Please Limit Your Remarks to 3 Minutes. Public Hearing Closed	
	Council Discussion.	
	Action- <b><u>Motion to Waive</u></b> the Reading in Full of Zoning Amendment Ordinance.	
	Action- <b><u>Motion to Introduce</u></b> Ordinance by Title Only. (Roll Call Vote)	

**PUBLIC HEARINGS:**

	<b>Time Estimate</b>		<b>Page</b>
17.	5 Minutes	<b><u>ZONING AMENDMENT, ZA-04-15/DEVELOPMENT AGREEMENT, DA-04-13: HILL-GERA</u></b> Public Hearing Opened. Please Limit Your Remarks to 3 Minutes. Public Hearing Closed Council Discussion. Action- <b><u>Approve</u></b> Mitigated Negative Declaration. Action- <b><u>Motion to Waive</u></b> the Reading in Full of Zoning Amendment Ordinance. Action- <b><u>Motion to Introduce</u></b> Zoning Amendment Ordinance by Title Only. (Roll Call Vote)  Action- <b><u>Motion to Waive</u></b> the Reading in Full of Development Agreement Ordinance. Action- <b><u>Motion to Introduce</u></b> Development Agreement Ordinance by Title Only. (Roll Call Vote)	137
18.	10 Minutes	<b><u>ZONING AMENDMENT, ZA-05-02: TEXT AMENDMENT – MONUMENT SIGNS/FORD MOTOR COMPANY</u></b> Public Hearing Opened. Please Limit Your Remarks to 3 Minutes. Public Hearing Closed Council Discussion. Action- <b><u>Motion to Waive</u></b> the Reading in Full of Ordinance Amending Section 18.76.250.H.1.B of the Municipal Code. Action- <b><u>Motion to Introduce</u></b> Ordinance by Title Only. (Roll Call Vote)	173
19.	10 Minutes	<b><u>WATER CONSERVATION SUBMETERING ORDINANCE</u></b> Public Hearing Opened. Please Limit Your Remarks to 3 Minutes. Public Hearing Closed Council Discussion. Action- <b><u>Motion to Waive</u></b> the Reading in Full of Ordinance Amending Chapter 13.04 (Water System) of the Municipal Code. Action- <b><u>Motion to Introduce</u></b> Ordinance by Title Only. (Roll Call Vote)	185

## ***City Council Action***

**OTHER BUSINESS:**

	<b>Time Estimate</b>		<b>Page</b>
20.	10 Minutes	<b><u>PROPOSED VEHICLE REGISTRATION SURCHARGE FOR SANTA CLARA COUNTY</u></b> <b><u>Recommended Action(s):</u></b> 1. <b><u>Accept</u></b> Report from Council Regional Planning and Transportation Subcommittee; and 2. <b><u>Consider</u></b> Adoption of Resolution Supporting the Proposed Senate Bill 680 (Simitan) Imposing a \$5.00 Surcharge on Vehicle Registrations in Santa Clara County Annually for a Period of Eight Years to Fund Specified Transportation Improvements.	191

**FUTURE COUNCIL-INITIATED AGENDA ITEMS:**

Note: in accordance with Government Code Section 54954.2(a), there shall be no discussion, debate and/or action taken on any request other than providing direction to staff to place the matter of business on a future agenda.

**ADJOURNMENT**